



Former President of Maldives Mr. Nasheed's Political Refugee Status in the UK: Responses and Implications

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The former President of Maldives, Mr. Nasheed was granted a refugee status in UK on 23 May 2016. After securing the refugee status he launched a “Maldives United Opposition” in London on 1st June to ‘fight for the restoration of democracy in Maldives’. Given this development, this paper will try to explore answers to few questions such as, why did the UK grant refugee status to the former President, what was the response of international community, what will be the implications for democratization process in Maldives and what is India’s position on this issue.

Why did the UK grant refugee status to the former President

As of now, the UK government has not come out with a statement specifying reasons for granting refugee status to Mr. Nasheed. However, the decision by the UK to grant the refugee status to Mr. Nasheed could have been influenced by reasons, such as, UK’s general policy on asylum seekers; UK’s stand on human rights and democratization process in Maldives since 2008 and response to the Commonwealth and UN initiatives at political dialogue process.

Policy on Asylum

According to 1951 Geneva Convention, a person who applies for asylum, it is necessary to show that, the person is facing the threat of persecution in home country for one of the five reasons specified in the Convention such as race, religion, nationality, membership of a particular social group or political opinion. It is also necessary to show that, the person who applies for asylum

could not find protection in another part of their country and the person would be at risk of experiencing such persecution in the future if returned’.

The UK grants refugee status to an asylum applicant, if the UK’s Secretary of State is satisfied that (under immigration rules part II: Asylum, paragraph 334), ‘refusing asylum application would result in the person being required to go, in breach of the Geneva Convention, to a country in which the persons’ life or freedom would be threatened on account of the five reasons specified above’. Refugee status can also be granted, ‘if there are no reasonable grounds to believe that, asylum seeker, is a danger to the security of the United Kingdom’.

Based on these rules, the UK granted the refugee status to Mr. Nasheed. Because, some of the reasons for persecution mentioned above applies in Nasheed’s case as he was sentenced to 13 year imprisonment on terrorism charges in Maldives. The UN criticized the trial as politically motivated and arbitrary.

UK’s stand on democratization process

UK’s decision to grant refugee status to Mr. Nasheed was an anticipated move, given the stand the UK government has been taking on developments within Maldives. It is conveyed through various statements by policy makers in UK and through Commonwealth and other mechanisms such as EU.

Apart from supporting the first democratically elected government in 2008 in Maldives UK had responded to the political instability Maldives witnessed since 2012. Various statements given in Parliament and to the press regarding UK’s position on Maldives, point out that, the UK was in support of peaceful political dialogue to resolve differences between political parties. For example, ‘it welcomed the setting up of Commission of National Inquiry’ (CoNI) to investigate the power transfer that took place on 7th February 2012’ due to the resignation of first democratically elected government of Mr. Nasheed.¹ The UK endorsed the report of the Commission, which concluded that ‘Mr. Nasheed’s ouster was not a coup and called for early elections to restore democracy’.

The controversial Presidential elections were held in 2013 amidst allegations of malpractices in voting list. The Progressive Party of Maldives (PPM) headed by the current President, Mr. Abdulla

Yameen, appealed in the SC to cancel the first round of elections, in which the Maldives Democratic Party (MDP) candidate Mr. Nasheed got the majority of votes that is 46.93% of the total votes polled. In this context, the UK took a stand that, the ‘first round of Presidential elections that were held on 7th September 2013, were free and fair and hoped that the second round of elections will go ahead without further delay’.² Since none of the candidates got the required majority in the elections i.e, above fifty percent of the total votes polled, as per the constitution of Maldives, second round of elections will have to take place on a stipulated date specified by the election commission. However, the SC of Maldives acted in favor of PPM and canceled the first round of elections. In the context of 2013 elections, UK also acknowledged the role of judiciary in undermining the election process which was evident in the statement given by the Foreign and Commonwealth Office (FCO) Minister of State, Hugo Swire on 31st October 2013. He said that, “legal challenges increasingly appear to be aimed at preventing the people of the Maldives from having their say at the ballot box”.

Deterioration of democratic space in Maldives since the last Presidential elections through arrest of political opponents and through legislative measures is an issue of international concern. Since 2014, the government of UK opposed various decisions taken by the present government, to curb powers of the election commission and other independent bodies. For instance, it condemned the decision taken by the current government in March 2014, to dismiss two Election Commission members. Regarding the arrest and 13 year imprisonment of former President Nasheed on terrorism charges, UK took a position that, “former President’s trial has not been conducted in a transparent and impartial manner or in accordance with due legal process”.³

In light of the judgments given by the courts in Maldives against political opponents to the current regime, the UK appealed for the release of all political prisoners including Mr. Naheed and asked the government to implement mechanisms for separation of powers. For example, since 2014, the current regime arrested many political and civil society activists and put in jail, prominent opposition leaders, including leaders from the ruling party, PPM on terrorism and various charges. For example, apart from Mr. Nasheed, Addalath Party (AP) leader Mr. Sheikh Imran Abdulla was sentenced to 12 year prison on terrorism charges, ex vice-president, Ahmed Adeeb, was arrested in connection with the explosion in September last year, on a boat carrying the President and his family and was sentenced to 15 years, on terrorism charges; another former

vice-president Mr. Jameel Ahmed was impeached on treachery charges and ex-defence minister Mohammed Nazim was jailed on weapons smuggling charges. Apart from these leaders, according to media reports and opposition claims more than thousand political activists are facing various charges for participating in protests and speaking against the government. Government of Maldives introduced the Anti-Terrorism Act in October 2015, which gave arbitrary powers to the government to curb any form of dissent.

Amidst these developments, sensing increasing international pressure, the government of Maldives released Mr. Nasheed on medical grounds and gave permission to travel to UK for a month in January this year. In a meeting that took place on 23rd January 2016, the Prime Minister of UK assured Mr. Nasheed that “the UK would continue to raise concerns about the erosion of democracy and the wider situation in the Maldives and it would also continue to discuss the situation with international partners”.⁴ The government of UK also listed Maldives as human rights priority country in its FCO 2015 Human Rights and Democracy Report. According to the report, ‘the UK in 2016 will continue to monitor the human rights situation in Maldives’.⁵

Response to the UN and Commonwealth efforts at promoting Political Dialogue

Lack of political will shown by the government of Maldives to implement Commonwealth Ministerial Action Group Meeting (CMAG) recommendations of 24th February 2016, could have influenced the decision taken by the UK, to grant refugee status to Mr. Nasheed. Release of all political prisoners including Mr. Nasheed was one of the significant recommendations made by the group. Other recommendations such as, need for inclusive political dialogue, prevention of the use of anti-terrorism law and separation of powers and independent judiciary were significant for restoring democratic space in the country. Intransigent positions taken by the government and opposition, on issues such as release of political prisoners before the talks, led to a stalemate in the political dialogue process initiated in March this year.

Meanwhile, the UN tried to facilitate all party political dialogue. Mr. Tamrat Samuel, Senior Adviser to the United Nations Department of Political Affairs, was in Maldives from 16 April to 29th April to facilitate talks. The UN statement after conclusion of the visit made it clear that, there are major differences between the government and the opposition on various issues. At the same time, ‘the discussions held by the UN representative have produced a few promising areas of

possible convergence of views and compromise to end the current stalemate and pave the way for dialogue in near future'.⁶ However, the UN statement did not specify the areas on which, the government and opposition are willing to have a compromise and stated that, "further consultations will take place in the near future".

After the unsuccessful UN attempt, the CMAG meeting that was held on 20th April 2016, reviewed the progress made on the recommendations mentioned above. The concluding statement, while acknowledging the lack of progress made in political party dialogue, expected a clear road map and time frame from all the political parties on political dialogue agenda'.⁷ The Group also expressed its disappointment with the government order that 'revoked the medical leave granted to some senior political figures' and expressed its concern regarding little or no evidence of substantive progress achieved in promoting freedom and space for civil society. The indiscriminate use of anti-terrorism law by the government was also criticized. The only area where little progress has been achieved, the group believes, is in addressing separation of powers and independence of judiciary. Introduction of 'Criminal Procedure Bill' in Parliament was considered as a positive step. The Group is going to review the 'clear measurable progress on recommendations again in September meeting and will take appropriate action'.

Despite the CMAG recommendations the lack of interests shown by the government and opposition to initiate political dialogue is related to the divergence of expectations within Maldives political spectrum regarding the role of Commonwealth in Maldives. For example, Mr. Nasheed in an interview to the *Hindu*, 'expressed his disappointment at the weak resolve of the Commonwealth Secretariat and its failure to impress upon the Maldives government for reform'. He is rooting for taking Maldives case to the UN and other international judicial forums'.⁸ The government on the other hand, is expecting, India's and Pakistan's help "for protection against punitive action" from the Commonwealth Ministerial Action Group".⁹ This was evident from the statements given during the visit of Maldives President to India in April this year. The government is well aware of the fact that placing Maldives in formal agenda can damage the country's economic engagement with other countries.

As for as the UK government is concerned, it seems to be giving prominence to the Commonwealth body in handling Maldives issue. For example, during the debate in House of

Commons regarding Maldives government attitude towards CMAG recommendations, Mr. Hugo Swire, UK Minister of State for the FCO said that, “we want the Maldives to stay as a committed member of the Commonwealth and to adhere to Commonwealth values, meaning transparency, accountability, democracy—all the things that we accept as the norm. We want the people of the Maldives to be served by a Government that adheres to those principles”.¹⁰ UK expressed its willingness to work through Commonwealth Partners such as India, for the restoration of democracy in Maldives.

Reaction of the international community

The UK’s decision to grant refugee status to Mr. Nasheed, did not elicit an immediate reaction so far from the international actors such as US and EU. However, based on official statements given in the past and discussions took place in parliament, regarding the internal political developments in Maldives, it can be concluded that it was an anticipated development by the international actors and they endorsed the decision. US Department of State, press briefings and statements concerning Maldives shows that it wanted the government of Maldives to release Nasheed and all the political prisoners and to take immediate “steps to restore confidence in its hard-fought democracy and the rule of law, including judicial independence and freedom of the press”.¹¹ On 7th April 2016, the US Senate passed a resolution (res.392) on Nasheed’s imprisonment and urged the government of Maldives “to ensure due process and freedom from political prosecution for all the people of the Maldives”.¹²

China also did not issue a statement, regarding the refugee status given to Mr. Nasheed in UK. On 2nd July 2014, H.E. Mr. Wang Fukang, Chinese Ambassador to Maldives, published an article titled "Advocating the Five Principles of Peaceful Coexistence and Bringing China-Maldives Relations to a New High" in Moidhu, Maldives news paper. On the aspect of mutual respect for territorial integrity and sovereignty and mutual non-interference in internal affairs, he mentioned that, “China has always stayed out of the domestic politics of Maldives, with full respect to the political system and development paths that Maldivians have chosen based on their own situation”.¹³ In continuation of this policy, even after the arrest and trial of former President in Maldives, Foreign Ministry Spokesperson Hong Lei’s said at the regular Press conference on 25th February 2015 that, “it is the domestic matter of the Maldives and China upholds the principle of

non-interference in other countries' domestic affairs. We believe the Maldivian side can deal with its domestic affairs properly".¹⁴

The EU on the other hand issued a strong statement regarding the internal political situation in Maldives. The EU Parliament passed a resolution, on 17th December 2015, on Maldives expressing 'concern about the gradual deterioration of democratic standards and increasingly authoritarian tendencies'.¹⁵ Resolution also called on the "EU and its Member States, "to introduce restrictive measures in the form of targeted sanctions to freeze the assets abroad of certain members of the Maldivian Government and their leading supporters in the Maldivian business community, and to impose travel bans on them".¹⁶ This decision if implemented might have implications for the Maldives economy. Europe has been an important source, for tourism market in Maldives. Market share by regions during 2010-2014 indicate that, Europe contributed significantly to the Tourism sector. According to the Maldives Tourism Ministry, 'from 2010-2012, Europe market share stood at 63.3%, 57.7% and 54.0% and this came down to 43.9% in 2014'.¹⁷ Slow growth of Maldives economy is another concern, which is also linked to political situation in the country. For example, GDP growth, according to World Bank, slowed to 1.9% in 2015. Reason for slow growth is due to slowdown in tourism arrivals, especially from China and Russia and a number of cancellations of tourism reservations following the state of emergency in November last year'.¹⁸

Above statements clearly indicate that, the US and EU will continue to raise the Maldives issue pertaining to the question of human rights and separation of powers. However, whether the Maldives's government will relent on recommendations by international actors is hard to answer. Unless, there are clear economic implications for the acts perpetrated by the Maldives government with regard to human rights, much of it might continue as it is, at least till the 2018 Presidential elections.

Implications for Maldives

Given the above developments, what are the implications for democratization process in Maldives? After securing refugee status in Maldives Mr. Nasheed announced the formation of 'United Maldives Opposition' in London on 1st June. 'Shadow Cabinet' was formed comprising members of MDP, AP, Jumhoory party (JP), two of the current President's former deputies, Nasheed's lawyer and former defence minister. Mr. Nasheed, Sheikh Imran Abdulla, leader of

Adalat Party (AP) and Col.Mohamed Nazim, former Defence Minister will act as advisors to the new coalition. The coalition hopes that the ‘transitional government’, will create conditions for free and fair elections and judicial and constitutional reforms’. After securing asylum in UK, Mr. Nasheed in his statement said that, “given the slide towards authoritarianism in the Maldives, myself and other opposition politicians feel we have no choice but to work from exile – for now”. This statement indicates that, this coalition is a temporary arrangement, which will work towards creating favorable political conditions within Maldives, with the help of international actors.

The government of Maldives clearly denied any outside pressure to allow Nasheed to leave for UK and expressed its disappointment that “the UK Government is allowing itself to be part of this charade”. The government of Maldives also, accused Mr. Nasheed of politicizing medical leave’ and reminded the international community not to forget that Mr. Nasheed is convicted of ordering to abduct a judge, which carries strict penalty in any country’. The government statement, endorsed the judicial process in Maldives, which is under scrutiny by the UN.

Future of New Coalition

A few of the objectives of the new formation are: ‘restoration of democracy and constitutional rule in Maldives; immediate removal of President Abdulla Yameen through all legal and lawful mechanisms; establish transparent system to monitor public finances and safeguard the national treasury and protect the rights of 1700 individuals currently under investigation, prosecution and arbitrary arrests’.¹⁹

In a scenario where the government of Maldives is not relenting to international concerns, what will be the future of the new coalition? It is evident from media statements’ that, former Vice-President, Dr. Jameel will play a prominent role in ‘transitional government’ and parties such as MDP and AP will play a supporting role till the 2018 elections. According to Mr. Nasheed, ‘the supporting role the MDP will play in coming days will help in bringing about free and fair election. For this the MDP has taken a decision to bridge political differences by agreeing to follow other leaders’.

The decision by the MDP leadership to support former vice-president, Mr. Jameel’s leadership must have been taken based on few facts such as uncertainty over the jail term of Mr. Nasheed;

his inability to contest 2018 elections due to prison sentence and Maldives government's defiance to implement CMAG recommendations. Mr. Nasheed's political asylum in UK in the past, helped in building pressure on the former authoritarian President Mr. Gayoom's regime. However, in the present scenario, how long the coalition will last is difficult to presume due to the considerations listed below:

- Given the history of frequent change of political affiliations within the opposition coalition and within government coalition, it will be difficult for the new United Maldives Opposition to bring, changes to the overall political situation in the country. And how long the coalition will last is also a question. Some of the leaders in the new coalition, in the past helped the current regime to consolidate President's powers, particularly, the former Vice- President Mr. Jameel. Vice President Mr. Ahmed Adeeb was represented at London meeting by his wife, Fathmath Liusha. MDP in the past accused Mr. Adeed of encouraging corruption and extremists elements in the society. And now the MDP leadership is asking its supporters to back Mr. Jameel Ahmed leadership.
- Since most the leaders opposed to the government are in exile or imprisoned, how the opposition is going to mobilizing people's opinion on the ground is an issue. It will not be easy for the remaining second rung leaders to mobilize public opinion against the government. Terrorism and other charges might be applied against them by the government if need be. Since most of the opposition leaders are outside the country, the ruling party PPM has now got an opportunity to consolidate its power before the 2018 Presidential elections. Whether the government of Maldives will implement the Commonwealth recommendations before the CMAG meeting in September is the question. As of now, the government has not taken appropriate action on recommendations. The government in fact is following an opposite direction when it comes to implementation. Continuous use of Anti-Terrorism Law against government opponents is an example. For instance, the former Vice-President of Maldives Mr. Adeed was given on 5th June 2016, 15 year prison sentence on terrorism charges. On 10 June 2016, a criminal court has found the former chief prosecutor Muhthaz Muhsin guilty of terrorism for conspiring to kidnap President Abdulla Yameen. He was sentenced to 17-year jail term. In an another case, 'Ahmed_Nihan, a senior judge at the Maamigili magistrate

court, was found guilty of terrorism and sentenced to 17 years in jail on 10th June'. He was convicted of conspiring to kidnap President Abdulla Yameen. Arresting and jailing people under the anti-terrorism law, which the international community denounced, is a clear indication that, Maldives government will implement the law, to suit its interests and through arguments based on sovereignty.

India's Position on Recent Developments

While announcing the formation of the "United Maldives Opposition" in London on 1st June, Mr. Nasheed said that, coalition leaders are 'willing to seek recognition and assistance first from India'. So far India has remained silent on Nasheed's refugee status in UK as well as to the request by the former President to recognize the United Maldives Opposition in UK. Even though India has not made public its position on refugee status that was granted to Mr. Nasheed, questions answered concerning Maldives in parliament in 2015 and 2016 by the Ministry of State (External Affairs), Gen. V.K.Singh, provides an insight into the India's policy on Maldives. India's policy towards Maldives is based on "support for stability, political pluralism and development".²⁰ To a question on whether India should impose sanctions on Maldives in conjunction with countries in the Indian Ocean Region, the minister answered that, India would like to "engage Maldives both bilaterally and in the Commonwealth framework on issues pertaining to its development".²¹ This suggests that, India is not in favor of sanctions against the government of Maldives to restore democracy as proposed by the EU. After the imprisonment of former President of Maldives, India took a stand that, 'government and opposition should resolve their differences within a constitutional and legal framework of Maldives'.²² The above answers indicated that, India is following a cautious 'wait and watch' approach towards the internal developments of Maldives and expecting that political differences will be solved through political dialogue between the government and opposition. Meanwhile, India will engage with Maldives both bilaterally and through Commonwealth mechanisms. Since the UK also expressed its interests in working with Commonwealth partners including India it will allow for all three to impress upon the government of Maldives to bring in democratic reforms.

Conclusion

The above developments indicate that, political uncertainty will continue in Maldives. It remains to be seen how the Maldives United Opposition, in exile will impress upon the Maldives

government to release political prisoners and bring in much needed judicial reforms. It will not be easy for the opposition to mobilize public opinion in Maldives as most of the important opposition leaders are in exile or imprisoned. Mr. Yameen's regime will try to consolidate powers before the 2018 Presidential elections through legal and constitutional means. Leverage the international community is trying to exercise on the Maldives government to implement democratic reforms did not bring expected results so far. In this scenario, amicable solution needs to be found through internal political dialogue between all the political players in Maldives or through international facilitation.

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Disclaimer: Views expressed are of author and do not reflect the views of the Council.

Endnotes:

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